

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

LEROY ECKOLS	§	
VS.	§	CIVIL ACTION NO. 1:09-CV-572
REGINALD GOINGS, ET AL.	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Leroy Eckols, a prisoner previously confined at the Larry Gist State Jail, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Reginald Goings, Brian Rodeen, and Brad Livingston.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends granting defendants' motion to dismiss the claims against them in their official capacities; denying the remainder of defendants' motion to dismiss for failure to state a claim; and granting defendants' motion for a Rule 7 reply.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record and the pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Defendants' motion to dismiss the claims against them in their official capacities is **GRANTED**. In all other respects, the defendants' motion to dismiss for failure to state a claim is **DENIED**. Defendants' motion for a Rule 7 reply is **GRANTED**.

So **ORDERED** and **SIGNED** this **28** day of **September, 2010**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge